

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08cv230**

| | | |
|--|---|--------------|
| FIRST UNION RAIL CORPORATION, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| Vs. |) | ORDER |
| |) | |
| SPRINGFIELD TERMINAL RAILWAY |) | |
| COMPANY; MAINE CENTRAL RAILROAD |) | |
| COMPANY; BOSTON AND MAINE |) | |
| CORPORATION; and PAN AM RAILWAYS, |) | |
| INC., |) | |
| |) | |
| Defendants. |) | |
| |) | |
| _____ |) | |

THIS MATTER is before the court on plaintiff's second Motion for Sanctions (#34) and Motion for Extension of Time to Complete Discovery (#36). In light of the procedural history of this case, the court will set both motions for hearing on May 1, 2009, at 11 a.m. Defendants response, if any, to the motion for extension of time will be due not later than April 29, 2009, so that it may be reviewed by the time of the hearing. There will be no reply for this motion. Any reply by plaintiff as to its Motion for Sanctions will also be due April 29, 2009. Counsel should also be prepared to discuss setting a ready date for trial of this matter, an issue which does not appear to have been addressed in the earlier Pretrial Order.

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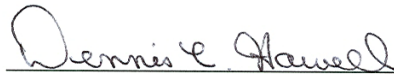
Finally, all counsel are advised that, in the event it is determined at the hearing that defendants have failed to fully comply with this court's earlier Order compelling discovery responses and issuing sanctions, the parties should be prepared to discuss

why defendants' Answer should not be stricken and judgment entered against them or other relief granted under Rule 37(b)(2), Federal Rules of Civil Procedure. If such failure (if any) is determined to be a contempt of court, it would also be advisable for counsel to bring their personal checkbooks.

ORDER

IT IS, THEREFORE, ORDERED that plaintiff's second Motion for Sanctions (#34) and Motion for Extension of Time to Complete Discovery (#36) are **CALENDARED** for hearing on May 1, 2009, at 11 a.m. in Asheville, North Carolina.

Signed: April 21, 2009



Dennis L. Howell
United States Magistrate Judge

